



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

February 17, 2004

Mr. Bob Diberto
334 Route 108
Madbury, New Hampshire 03820

**CERTIFIED MAIL (7099 3400 0003 0687 1465)
RETURN RECEIPT REQUESTED
LETTER OF DEFICIENCY
No. ARD 2004-002**

RE: Improper Asbestos Removal at Nicco Road, Madbury, NH

Dear Mr. Diberto

On August 6, 2003, the New Hampshire Department of Environmental Services, Air Resources Division ("DES"), received information that you obtained a demolition permit from the Madbury Building Inspector, Jerry Mullaney, and then proceeded to demolish two partially collapsed greenhouses owned by you and located at Nicco Road, Madbury, NH (the "Property"). DES has information indicating that testing for the presence of asbestos containing material ("ACM") was conducted for a former owner of the Property. The testing was done on the glazing compound used on some of the greenhouses. The results of the analysis, which was completed in April 2000, indicated that ACM was present.

On August 7, 2003, a representative from DES went to the Property to determine if ACM had been disturbed during the demolition project, and to determine conformance with the provisions of RSA 141-E and the NH Admin. Rules Env-A 1800, *Asbestos Management and Control*, regulating asbestos abatement activities. DES personnel inspected the Property, photographed the demolition debris, and took several samples of suspected ACM for laboratory analysis.

On August 8, 2003, DES personnel spoke with you and explained the requirements for the written notification and the inspection for the presence of possible ACM, and faxed you some essential information.

As a result of the inspection and information gathered, this Letter of Deficiency ("LOD") is being sent to identify the following deficiencies:

- Env-A 1803.03 requires each facility operator to provide written notification to the division, the EPA Regional Office, and the city/town health officer, as applicable to the worksite location, in accordance with Env-A 1803.06 at least 10 working days before any demolition activity begins. This notification shall be required regardless of the amount of ACM, if any, which is contained in the facility.

- Env-A 1804.01 requires that before undertaking any demolition or renovation, each facility operator shall provide for an inspection, by a competent person, of the affected portion(s) of the facility for the presence of ACM. Env-A 101.80 defines a "competent person" as someone capable of identifying asbestos hazards and who has completed, at a minimum, a training course for asbestos inspectors.

DES believes that the deficiencies can be resolved by taking the following action:

- Testing for the presence of ACM by a qualified inspector competent in the identification of ACM should be completed on the demolition debris currently located on the Property within 90 days of receipt of this LOD. Results of the testing must be submitted to DES prior to the clean up and disposal of the debris.

Please be advised that DES will continue to monitor the clean up and any further demolition activities at the Property. DES believes that you can avoid the improper disturbance of ACM and the health hazards and liability that are associated with exposure to asbestos by complying with Env-A 1800, *Asbestos Management and Control*.

If you believe that DES has cited these deficiencies in error or if you have any questions or require additional information regarding this matter, please contact Mr. Steve Cullinane, Asbestos Program Manager, Compliance Bureau, Air Resources Division, at (603) 271-1373 or Joseph Ritz, Compliance Bureau, Air Resources Division, at (603) 271-1391.

Sincerely,



Pamela G. Monroe
Compliance Bureau Administrator
Air Resources Division

PGM/jwr

Enclosure: List of asbestos abatement contractors
Env-A 1800

M. Harbaugh, DES Legal Unit
W. Toland, EPA Region 1
J. Mullaney, Madbury Building Inspector
Madbury Board of Selectmen